

FACT SHEET FOR GENERAL PERMIT FOR DISCHARGE TO THE GROUND WATER OF STORMWATER RUNOFF FROM PARKING LOTS WITH HIGH INTENSITY USE

INTRODUCTION

Pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the Ground Water Discharge Permitting Program Regulations, 314 CMR 5.00, (the Ground Water Regulations”), the Department of Environmental Protection (the “Department” or “MassDEP”) is issuing a general permit (the “General Permit”) for the discharge to the ground water of stormwater runoff from parking lots with high intensity use (i.e. at least 1000 vehicle trips per day). Such parking lots are typically associated with large shopping malls, office parks, and commercial developments. This fact sheet provides the principal facts and the significant legal and policy questions considered in the development of the General Permit. This fact sheet also identifies the entities eligible for coverage under the general permit and the procedures for requesting coverage under the general permit.

COVERAGE OF GENERAL PERMITS

The Ground Water Regulations, 314 CMR 5.00, establish the program whereby discharges of pollutants to the ground waters of the Commonwealth are regulated by MassDEP pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, § 43. MassDEP regulates the discharge of pollutants to the ground waters of the Commonwealth to protect these ground waters for use as an actual or potential drinking water source and surface waters for their existing and designated uses and to assure the attainment and maintenance of the Surface Water Quality Standards 314 CMR 4.00. Pursuant to this authority, the Ground Water Regulations, 314 CMR 5.04(2)(b), provide that new or increased discharges to the ground water of stormwater runoff from a land use with a higher potential pollutant load require a permit.

The Ground Water Regulations, 314 CMR 5.00, provides that a new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load occurs, if, at any time, after *date* (effective date of proposed regulatory revision), the following work occurs on a site with a land use with a higher potential pollutant load: site preparation; construction; redevelopment; excavation; an increase in impervious surface; or a modification of the stormwater management system, hydrology, or drainage patterns. The Ground Water Regulations, 314 CMR 5.04(2)(b), further provide that a new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load also occurs whenever there is new development that results in a land use with a higher potential pollutant load or a change in use that results in a new or different land use with a higher potential pollutant load.

Stormwater runoff from parking lots with high intensity use may have high concentrations of oil and grease, total suspended solids, copper, zinc, and polycyclic

aromatic hydrocarbons. The Ground Water Regulations, 314 CMR 5.02, provide that such parking lots are a land use with a higher potential pollutant load.

The Ground Water Regulations, 314 CMR 5.13, authorize the issuance of general permits to one or more categories or subcategories of discharges. Pursuant to 314 CMR 5.13, MassDEP may issue a single general permit to a category of facilities whose discharges warrant similar control measures, because they:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

Based on the factors set forth above, MassDEP hereby issues the General Permit for new and increased discharges of stormwater runoff to the ground water from parking lots with high intensity use. The runoff from such parking lots generally involves the same type of operations, discharge the pollutants specified above, and require the same type of operating conditions. The Department has therefore determined that the discharge of stormwater runoff from high intensity use parking lots is more appropriately controlled under a general permit than under an individual permit.

DISCHARGES ELIGIBLE FOR COVERAGE UNDER THE GENERAL PERMIT

The discharge of stormwater runoff from high intensity use parking lots to ground water is eligible for coverage under the General Permit provided that:

The discharge is a new or increased discharge of stormwater runoff from a parking lot with high intensity use as defined in 314 CMR 5.04(2); or

Pursuant to 314 CMR 5.04(2), the Department has designated an existing discharge of runoff from the parking lot with a high intensity use as a significant source of pollutants to the ground waters of the Commonwealth and required the discharger to request coverage under the General Permit; and

There are no discharges of stormwater runoff from a land use with a higher potential pollutant load other than a parking lot with high intensity use. If there is stormwater runoff from such land uses, the discharger shall request coverage under an alternative general permit or apply for an individual permit.

REQUIREMENTS FOR COMPLETING A NOTICE OF INTENT REQUESTING COVERAGE UNDER THE GENERAL PERMIT

A complete Notice of Intent Requesting Coverage Under the General Permit shall include the following:

1. Name, address of owner or operator of the parking lot.
2. Site address if different from above.
3. Site contact person.
4. Identification of the party responsible for the operation, maintenance, repair and replacement of the stormwater management system and documentation that the party meets the requirements of 314 CMR 5.16(7).
5. Identification of the party responsible for implementation of the pollution prevention plan.
6. Documentation that public notice has been provided in accordance with 314 CMR 2.00 that based on the certification of a Massachusetts Registered Professional Engineer with a concentration in environmental engineering the Department is considering whether to grant coverage under the General Permit.
7. Documentation that the applicant will not appeal a decision by the Department granting or denying coverage under the general permit and that if coverage is denied under the General Permit, and the applicant intends to proceed with the proposed stormwater discharge, the applicant will apply for an individual permit.
8. A copy of the applicable section of the MassGIS quadrangle map showing the location of the site and all stormwater discharges in relation to private and public drinking water sources, wetland resource areas, surface waters including Outstanding Resource Waters designated in 314 CMR 4.00, Special Resource Waters designated in 314 CMR 4.00, bathing beaches as defined in 105 CMR 445.000, shellfish growing areas as defined in 314 CMR 9.02, and cold-water fisheries as defined in 314 CMR 9.02, any surface waters listed on the most recent Integrated List of Impaired Waters and any surface waters for which the Department has developed a Total Maximum Daily Load (TMDL). The plan shall also identify any areas with soils characterized by the Natural Resource Conservation Service (NRCS) as belonging to Hydrological Soil Group A.

9. A site plan showing the location of all buildings, structures, storage areas, and impervious surfaces on the site, the parking lot with high intensity use, the location of all water resource infrastructure including drinking water sources, pipes conveying potable water, pipes transporting wastewater, wastewater treatment facilities, and any components of the stormwater management system.

10. A schematic diagram of the stormwater management system along with a brief description identifying all stormwater best management practices (BMPs) and discharge points included in the system along with documentation in accordance with the Massachusetts Stormwater Handbook that the system has been sized to meet the peak rate attenuation requirements, the recharge requirements and the water quality treatment requirements of the Stormwater Management Standards set forth in 314 CMR 9.06 as further elaborated by the Handbook. The description shall indicate whether any stormwater runoff from the parking lot with high intensity use is discharged within the Zone I, Zone II, or Interim Wellhead Protection Area of a public water supply and whether any stormwater runoff from the parking lot with high intensity use is discharged to the ground near an Outstanding Resource Water designated in 314 CMR 4.00, a Special Resource Water designated in 314 CMR 4.00, a bathing beach as defined in 105 CMR 445.000, shellfish growing area as defined in 314 CMR 9.02, or cold-water fishery as defined in 314 CMR 9.02. A discharge is near such area, if there is a strong likelihood of a significant impact occurring to said area, taking into account site-specific factors.

11. A certification by a Massachusetts Registered Professional Engineer with a concentration in environmental engineering that the existing or proposed stormwater discharge and the associated stormwater management system, Pollution Prevention Plan and Operation and Maintenance Plan complies with the Stormwater Management Standards set forth in 314 CMR 9.06 as further elaborated by the Massachusetts Stormwater Handbook and all applicable requirements of the Federal Clean Water Act, the Massachusetts Clean Waters Act, the Massachusetts Wetlands Protection Act, 314 CMR 3.00, 314 CMR 4.00, 314 CMR 5.00, 314 CMR 9.00, and 310 CMR 10.00. If a TMDL has been developed for a surface water that may be impacted by the discharge, the Engineer shall also certify that the stormwater discharge and associated stormwater management system is consistent with the TMDL.

12. If a new or increased discharge of stormwater runoff from the high intensity use parking lot results from work, development, redevelopment, or a change in use that has been reviewed by the issuing authority under the Wetlands Protection Act in response to a Wetlands Notice of Intent filed on or after January 2, 2008, the proponent shall submit a copy of the Final Order of Conditions and the Wetlands Notice of Intent along with all supporting materials submitted to the Wetlands issuing authority in lieu of the information required by paragraphs 8 thru 11.

13. The proponent shall indicate the date when coverage under the General Permit is requested to begin. For a new development or a change in use that creates a new parking lot with a high intensity use, the date coverage under the General Permit is requested to begin shall be on or before the date use of the parking lot will commence. For an existing high intensity use parking lot, the date coverage under the General Permit is requested to begin shall be on or before the date that the work that triggers the requirement to request coverage under the General Permit is complete, or if MassDEP required the filing of a Notice of Intent, on or before the deadline established by the Department.

14. The application fee established by the Department.

15. The signature of a person identified in 314 CMR 5.14 along with the certification required by 314 CMR 5.14.

A Notice of Intent requesting coverage under the General Permit must be submitted with the Department approved forms and sent by certified mail return receipt requested to the regional office that issues permits for discharges located within the municipality where the new or increased discharge of stormwater runoff from the high intensity use parking lot is located and the Program Director, Wastewater Management Program, Department of Environmental Protection, One Winter Street, 5th Floor, Boston, MA 02108.

DATE COVERAGE UNDER GENERAL PERMIT TAKES EFFECT

A person requesting coverage under the General Permit is authorized to discharge to the ground water stormwater runoff from the parking lot with high intensity use in accordance with the General Permit within forty-five (45) days of receipt of the Notice of Intent by the Department unless s/he is notified by the Department in writing that additional information is required to determine whether the proposed discharge may be adequately or appropriately covered under the General Permit and/or that s/he is required to apply for an individual permit or to request coverage under an alternative general permit.

TIME TO REQUEST COVERAGE UNDER THE GENERAL PERMIT

Persons proposing new parking lots with high intensity use shall submit a Notice of Intent requesting coverage under the General Permit to the Department at least forty-five (45) days before the parking lot will go into operation. Person's with parking lots in existence on the effective date of the General Permit shall submit a Notice of Intent to the Department at least forty-five (45) days before completing the work that triggers the requirement to file a Notice of Intent or as directed by the Department.

CONDITIONS OF THE GENERAL PERMIT

Statutory and Regulatory Requirements

The Massachusetts Clean Waters Act makes it unlawful to discharge pollutants without a permit. The Ground Water Regulations, 314 CMR 5.04(2), expressly provide that certain “storm water discharges” including new or increased stormwater discharges from land uses with higher potential pollutant loads require a permit. The Ground Water Regulations, 314 CMR 5.02, define land uses with higher potential pollutant loads to include parking lots with high intensity use. To protect water quality, MassDEP has developed standards for the proper management of stormwater. These standards are set forth in the 401 Water Quality Certification Regulations, 314 CMR 9.06, and are explained in the Massachusetts Stormwater Handbook. To protect the ground water as a source of drinking water and to ensure that surface waters can attain or maintain compliance with the Surface Water Quality Standards, 314 CMR 4.00, MassDEP is requiring that new or increased discharges to the ground water of stormwater runoff from parking lots with high intensity use meet the requirements of the Stormwater Management Standards as further elaborated by the Massachusetts Stormwater Handbook.

The General Permit provides that the permittee shall develop and implement a Pollution Prevention Plan and an Operation and Maintenance Plan, remove illicit discharges from the stormwater management system, and design, construct, operate and maintain stormwater BMPs in accordance with the Stormwater Management Standards as further elaborated by the Massachusetts Stormwater Handbook. The General Permit also provides that once a year, the permittee shall conduct a comprehensive evaluation of the Pollution Prevention Plan including the illicit discharge removal program, the Operation and Maintenance Plan, and the stormwater BMPs to determine if any changes are needed to ensure compliance with the General Permit and the Stormwater Management Standards as further elaborated by the Massachusetts Stormwater Handbook and implement any changes that are identified as a result of the evaluation.

TERM OF THE PERMIT

The General Permit is in effect for a period of five years from the date of issuance.

RECORD KEEPING AND REPORTING REQUIREMENTS

The General Permit requires the permittee to keep a log of all actions taken to implement the Pollution Prevention Plan, the Operation and Maintenance Plan, and the recommendations set forth in the Comprehensive Evaluation Report. The Permit provides that the permittee shall make the log available to the Department upon request.

The General Permit provides that the permittee shall prepare a written report (the “Stormwater General Permit Compliance Report”) summarizing all actions taken under the General Permit to implement the Pollution Prevention Plan including the illicit discharge removal program, the Operations and Maintenance Plan, and the recommendations set forth in the Comprehensive Evaluation Report. For discharges located within the Zone II or Interim Wellhead Protection Area of a public water supply, the General Permit requires the permittee to submit the Stormwater General Permit Compliance Report annually on or before the anniversary of the date that coverage was granted under the General Permit. The General Permit further requires that all permittees submit the Stormwater General Permit Compliance Report at least sixty (60) days before the date the General Permit expires together with a Notice of Intent requesting continued coverage under the General Permit.